

**Internal Revenue Service**

**Department of the Treasury**

**District  
Director**

1100 Commerce St., Dallas, Texas 75242

Date: JUL 01 1954

Person to Contact:

[REDACTED]

Telephone Number:

[REDACTED]

Refer Reply To:

[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(03) of the Internal Revenue Code.

The information submitted with your application for tax exemption under section 501(c)(3) of the Internal Revenue Code indicates you are a nonprofit association formed [REDACTED] and domiciled in [REDACTED]. The purpose of this nonprofit association, as stated in your Constitution, is to promote competitive gymnastics by serving as an advisory body in support and development of all activities of the [REDACTED] gymnastics team and by contributing to the support and development of amateur athletes for national and international gymnastics competition.

You support the members of [REDACTED] gymnastics team who have been selected from children attending [REDACTED] a for-profit corporation. [REDACTED] and [REDACTED] serve as the President and Vice-President of the for-profit corporation; they also serve as head coaches for the [REDACTED] gymnastics team and are members of the Executive Board of [REDACTED] Parents Club with the elected officers of that organization. The Executive Board has general supervision of the affairs of the club between its regularly scheduled business meetings.

If a child is selected for the [REDACTED] team, the parents or guardians are required to join the association; annual dues are \$ [REDACTED] which entitles them to vote and hold office. Members of the [REDACTED] must participate in two-thirds of the fundraisers held each year. If a parent-member does not participate in fundraising, they will be assessed the required additional fees in order for their child to participate in the competitions. If the parent-member does not participate in the fundraisers or pay the assessment, the child-gymnast will not be allowed to compete.

[REDACTED]

Your revenues are from gifts, membership fees, and fundraisers. Your expenses are primarily for the fundraisers, fees for gymnastic events, USGF fees, expenses of the head coaches, social events and gifts, administrative expenses, bank charges, and miscellaneous. A \$[REDACTED] moving expense in [REDACTED] is unexplained.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations,\*\*\* fund, or foundation, organized and operated exclusively for religious, charitable, scientific, \*\*\* literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Revenue Ruling 69-175, 1969-2 C.B. 149, states that a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3).

[REDACTED]

Revenue Ruling 78-206, 1976-2 C.B. 154, states that a nonprofit organization formed to generate community interest in the retention of classical music programs by a local for-profit radio station by seeking program sponsors, encouraging continuation of contracts by existing sponsors, soliciting subscriptions to the station program guide, and distributing materials promoting the classical music programs, all of which activities tend to increase the station's revenue, does not qualify for exemption under section 501(c)(3) of the Code.

In the case of *Better Business Bureau of Washington, D.C., Inc. vs U.S.*, 326 U.S. 279 (1945), the United States Supreme Court concluded that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption from federal income tax regardless of the number or importance of the exempt purposes of the organization. According to Revenue Ruling 74-553, 1974-2 C.B. 168, this rationale applies equally well to any category of charitable purposes under Code section 501(c)(3).

Internal Revenue Code section 501(j) provides that a "qualified amateur sports organization" that otherwise satisfies the requirements of IRC 501(c)(3) will qualify for tax exemption under section 501(j) even though it may furnish equipment, facilities and be local in nature.

There is nothing in the Code to prohibit all dealings between a 501(c)(3) charitable organization and its founder or with those in controlling positions. However, when the interests of charity are sacrificed to the private interests of the founder or of those in control, exemption is precluded because the organization is being made to serve private interests.

The information submitted indicates the parent-members and the head coaches control and influence the activities of the organization. Because the parent-members are in a controlling position, they must be considered as "insiders" for the purpose of determining inurement of income. The head coaches are also officers of the for-profit corporation from which the child-gymnasts are selected.

Each parent-member must participate in the fundraising activities or pay an assessment for the anticipated cost of participation for their child-gymnast. It is clear in organizations adopting the "work or pay or don't play" method of funding their activities that the parent-members expect and receive direct benefits by providing a funding mechanism for themselves to help pay the substantial costs of their children's competition. You are similar to the organization described in Revenue Ruling 69-175 that provided bus transportation to and from the private school their children attended. The parents controlled the organization and provided themselves a service that fulfilled their individual responsibility to their children.

[REDACTED]

Like the organization in Revenue Ruling 76-206, you are creating community interest in an activity directly related to and conducted by a for-profit organization which will result in direct benefit to the owners of the for-profit corporation. The gymnasium's reputation is enhanced and the public is encouraged to patronize the facility. At least two officers of the for-profit corporation are in a position of influence and control in the supporting parent-member organization.

Accordingly, you are not entitled to recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code and contributions to you are not deductible by donors under Code section 170. Since you fail to satisfy the requirements for exemption under section 501(c)(3) you also fail to satisfy the requirements for exemption under section 501(j).

You are required to file federal income tax returns.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

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[REDACTED]

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Form 6018